

#4

April 6, 2005

The Honorable Derick Berlage
Chairman, Montgomery Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

RECEIVED
0598
APR 07 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Sir:

I am writing this letter in protest of the actions taken by the builders in the Clarksburg Town Center. I freely admit that I have no expertise in the area of land law or the inner workings of the county planning commission. However, as a West Point graduate, I do feel that I have a solid background in the areas of integrity, appropriateness, and adherence to prescribed standards. Our master plan is called the master plan for a reason; it is the county-approved document for what is permissible in the Clarksburg Town Center. The builders have not adhered to the plan. I find it difficult to believe that any builder would include in their project bid that they intend to disregard the master plan, and any subsequent binding project plan in the pursuit of additional profits. However, here we are with numerous variations. Something has clearly changed from proposal to implementation.

When I purchased my home in this community, I did so with the vision of the small town feel with a traditional design orientation. I enjoy this area and I chose this area for many quality of life reasons that include a community that I enjoy. I specifically chose the lot that my home is built upon and was prepared to wait out the night sleeping my car through a nasty thunderstorm to secure that location. I am not an investor looking to make a dollar, I am a homeowner and a husband who is trying to provide the best life I can for my family.

In this era of rapidly appreciating home prices, it is a great time to be a builder. However, to make additional profit through improper practices is not acceptable. My Clarksburg Town Center Advisory Committee (CTCAC) has informed me that several of the setbacks and building height restrictions that are set forth in the project plan have been violated. One would have to infer that the changes resulted in additional profitability for builder. Otherwise, the builder's argument is that they changed the design to build larger residences and did not adjust the prices. However, because there have been sales price increases from phase to phase of the building development of the condominiums, that line of reasoning does not seem to be an adequate representation of their strategy. The prices rise in accordance to market value; smaller residences in the exact same location rarely command a premium over larger residences. That would lead to a conclusion of additional profitability for the builder.

If the project plan changed somewhere in the county planning process, that needs further examination. I would like to know how the plan changed. I would like to know what internal controls are in place to ensure that master plans and their subsequent project plans are not changed without due process. I would like to know what the process is and who approved the current process. I would like to know how we, as homeowners, can be assured that our county government is not under undue influence from builders to disregard published, public plans through back office dealing and other unsavory activity. I am not making any accusations or inferences that illegal activity has taken place, but I would like to know what was supposed to happen and why the system broke. I would like to know if an internal investigation has been launched to uncover what happened with the building restrictions.

To this point I have not specifically mentioned the retail center. The builder in this area did not act in good faith until a heavily attended community meeting demanded change. To their credit they agreed to work with the CTCAC to come to a more amenable solution. Although, there has not been anyone at a community meeting that has voiced an opinion in favor of having a very large Giant Grocery store included in the retail area. We apparently have one coming in. The residents and homeowners would prefer an option for our shopping needs. The addition of another Giant in this area does not seem to

April 6, 2005

make much sense for residents, given the proximity of the Neelsville Shopping Center – about three miles to the south. Again, I understand Giant's desire to keep competitors out, but I would like to know what the process is for selecting an anchor store in a retail area like the Clarksburg Town Center. I would like to know if there are written policies, processes, reporting requirements, and control systems in place to ensure that the business being conducted in the development of my hometown is being done appropriately and effectively.

As of this point in time, there does not appear to adequate controls in place within the planning commission to prevent plan deviation. If this is an employee workload issue, then there are a few solutions. First, slow down building until the proper processes are followed. Secondly, increase staff with qualified individuals. Thirdly, improve control systems, including separation of duties and responsibilities so that no one person can make inappropriate changes, to ensure that ANY changes to the master and project plans are done openly, publicly, and with input from those residents that are affected. Any of these measures would increase the process.

However, if the problem lies neither with the planning process nor the planning commission there must be a penalty levied upon the builders for changing the project plan of my hometown in the pursuit of additional profits. That penalty should be to the full extent of what the law allows. I am not advocating the removal of the buildings, however, I am advocating triple damages based upon the additional profits secured by the builder for his inappropriate or negligent activity. The levied amount should be returned to community for additional improvements and upgrades.

Every month that I send a check to my mortgage company, I am paying a premium to live here. All I am asking for is to receive what I am paying for and the assurance that responsible parties are acting responsibly, or that they are accountable for their actions.

You may feel free to direct any responses to this letter to the CTCAC or to me at the address below.

Sincerely,

/s/ Brian J. Keen

Brian Jeffrey Keen
23701 Clarksmeade Drive
Clarksburg, MD 20871

Homeowner

CC:

rose.krasnow@mncppc-mc.org
michael.ma@mncppc-mc.org
wynn.withans@mncppc-mc.org
john.carter@mncppc-mc.org
nellie.maskal@mncppc-mc.org

#4

MCP-CTRACK

RECEIVED
0607
APR 11 2005

From: Peter Roscoe [proscor@gmail.com]
Sent: Saturday, April 09, 2005 12:31 AM
To: MCP-Chairman
Subject: Clarksburg Town Center

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

We moved to Clarksburg Town Center (CTC) about six months ear ago from Connecticut. We saw an exciting new plan that proposed a variety of housing, shopping and recreational areas for CTC. The plan was exactly what we were looking for and Clarksburg area was a perfect fit for our family. We thought the County Planning Board and the Clarksburg Citizens Group had done an excellent job and CTC was the perfect place for us.

The purpose of my communication is to request you, as our elected representatives, to look after the best interest of the county citizens. We have noticed to our surprise that no one has been holding the developers and the builders accountable as the CTC moves forward. They are taking liberty with the plan that was approved by the board. They have made unauthorized changes that are detrimental to future well being of this community. In fact they have built structures that go way beyond what was allowed in the plan. I am also concerned about the move to increase density and population in certain areas.

We expect you to hold the developer and the builders accountable at the forth coming hearing. We expect you to honor your commitment to the citizens of this County. We expect you to assure that the original plan stays intact and we expect you to hold firm. We moved to this community based on the plan that you had approved and that the builder and the developer had accepted. They came to CTC knowing what was expected of them. You should not be a party to what amounts to "bait and switch" tactic at this time.

We look forward to the hearing and will take copious notes at the proceedings to see who stands up for the ordinary citizens and who sides with the developer and the builders.

Thank you.

--
Pete Roscoe and Erika Roscoe

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#4

MCP-CTRACK

From: tjjmp@comcast.net
Sent: Tuesday, April 12, 2005 10:24 PM
To: MCP-Chairman
Subject: Site Plan Review (59-D-3.6 -Failure to Comply - Building Height)

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Reference: Site Plan File Numbers 8-98001, 9-98001B, and 8-02014

Clarksburg Town Center

Sir:

The attached file contains my comments on the Site Plan Review. I recommend that the complaint be dismissed on the grounds of fairness to the builder, Bozzuto, and to current unit owners/residents of the affected Condominium units. Please see the attached file for more details. Thank you.

Thomas J. Perrone
12832 Clarksburg-Square Road
Unit #102
Clarksburg, MD 20871

4/13/2005

Elizabeth R. Forrest
12824 Clarksburg Square Road
Unit 406
Clarksburg, MD 20871
301-916-8756

#41
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0609
APR 13 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

April 12, 2005

Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring
MD 20910

Attn: Montgomery County Planning Board/Wynn Witthans

Re: Site Review under 59-D-3, 6

Dear Planning Board:

I am a home owner in The Clarksburg Town Center in building #3 Which is one of the buildings in question as to height non Compliance. I have never been shown the documents which the Builders i.e. Bozutto and Craft Star where given as to the height of The buildings to be built in the Master plan. Do the documents Read: 45 feet or four stories or four stories and 45 feet? If the Builders were given site plans which said four stories then how can they be in violation?

I purchased the unit in good faith and it closed with a Title Company, there was no mention of any height violation. Until the Planning Board makes its decision anyone who lives in the Building would have an impossible time selling or getting a Mortgage or refinancing a mortgage.

I am in Florida with my 91 year old mother and cannot attend the

Meeting. This whole matter has been most disturbing to me, my Mother, who lives with me and many of the residents who live in The building. We will all be very happy when the entire situation Is settled.

I am very sorry that I was not able to meet with the women who Are called "CTCAC", who have initiated this violation application, At their March meeting. When I get home at the end of April, I hope to meet with them in order to give them my input and let them know of my desire to run for a position on their committee to represent the Condominium owners. The three women live in either a single Family home or Townhouses and there is no representation for the Condominiums.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth R. Forrest".

Elizabeth R. Forrest



Clarksburg Civic Association
P.O. Box 325
Clarksburg, Maryland 20871-0325

April 14, 2005

RE: CLARKSBURG TOWN CENTER AREA HEIGHT RESTRICTION

My name is Kathie Hulley and I am the Chair of the Planning Committee of the Clarksburg Civic Association.

During the Master Planning process for Clarksburg, many meetings were held over many years, consisting of residents, Park and Planning staff and the owner of the town center land. It has always been the understanding of the Clarksburg Civic Association that the town center area should be compatible with the Historic District. To this end, the Project Plan in 1994 determined a height restriction of 35 feet for single family and townhomes and 45 feet for multifamily homes and these should still be the defining heights for the buildings in this area - whether they be three or four stories, they should fit in with the 35 and 45 foot height restrictions.

The heights in feet from the Project Plan were not arbitrary heights to be discarded with maybe, the arbitrary stroke of a pen. We are disturbed that this defining height should be discarded in preference to a nebulous definition of a "story". Consider this: an extra 2.5 ceiling height on each floor of a four story building is equivalent to adding an extra 10 feet, (or another story) to that building, and this totally distorts the balance between the Historic District and the Clarksburg Town Center District.

There is a condominium building which has been constructed that exceeds 45 feet. This building is on very high ground with no consideration given to the sensitivity of how this would meld with the town as a whole. It towers over the area and is not at all in keeping with the concept of the Clarksburg Town Center District. The Clarksburg Civic Association requests that no other condominium buildings be built to that specification but should conform to heights specified in feet, not stories.

We urge you as the Planning Board to enforce the 35 and 45 foot height limits. After all, if it is so easy to remove what we consider to be a very important aspect of the Town Center District, what is the purpose of having a Project Plan at all? In this case there was no input from the community in a matter which should at least have had a public hearing. Residents of Clarksburg have, over the years devoted untold hours of totally volunteer time to ensure that Clarksburg would be a town of which all can be proud. All have had no pecuniary motive whatsoever. There are many of us who take time from our jobs to help safeguard the development of our town. It is disappointing, to say the least, that after great consideration that was given to the Project Plan when written, that seemingly cavalier actions can spoil the planning and image of Clarksburg.

MCP-Chairman

From: Rachel Johnson [rmsjohnson@hotmail.com]
Sent: Tuesday, May 03, 2005 10:30 AM
To: MCP-Chairman
Subject: CTCAC Appeal of Board's Decision

Hello. I am a resident of Clarksburg Town Center. I have been looking forward to the completion of the retail center since I moved to Clarksburg in April 2004. I will be very upset if the building of the retail center and the rest of the community is delayed. I agree with the Planning Board's April 14 decision, and hope that you do not reconsider this matter.

Thank you for your time,
Rachel Johnson
12828 Clarksburg Square Rd

June 17, 2005

Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RECEIVED
0999
JUN 28 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PLANNING BOARD

I am writing to urge the Planning Board to approve an amendment to the Clarksburg Master Plan, to designate the COMSAT Labs building for historic preservation.

This building has historical significance to Montgomery County in that it was used for historic work on space communications which included early analyses and decisions which led to the United States success in space, many inventions and spinoffs which added to the value of Montgomery County.

The building deserves to be preserved for its contribution to the world space program and its enhancement of Montgomery County and Maryland.

Sincerely,



Terry Rexford
143 Westway Road T3
Greenbelt, MD 20770

MCP-Chairman

From: Carolyn McAllister [carolmca@yahoo.com]
ent: Sunday, June 26, 2005 8:16 PM
To: MCP-Chairman
Subject: Clarksburg Town Center

RECEIVED
0992
JUN 27 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Mr. Berlage: I am writing to request your special consideration and attention to the issues listed below. Thanks in advance, Carolyn McAllister

WHAT HAS GONE WRONG IN THE CLARKSBURG TOWN CENTER PROJECT?

An Unfulfilled Vision - The Clarksburg Town Center Master Plan envisioned a new Town Center whose scale and layout were in keeping with the scale of existing Historic Clarksburg development. Sensitive and sensible architectural scale have been abandoned in favor of oversized homes and bigger profits, even as planned community amenities are being scaled back or disappears altogether.

Developer complicity - Developers built in violation of site plan standards with no apparent concern that they would be held to account by the Board. Now the developers have filed Project Plan "Amendments" that, if approved would "paper over" all the violations, by turning them into conforming construction. What possessed them to think that this strategy would actually work?

Staff failings - The staff has failed to systematically monitor compliance with the site plan development standards by ensuring that construction meets the prescribed development standards when releasing building permits. Why has the staff been attempting to blame DPS for these failings? Why has work not been brought to a halt on construction known to be out of compliance?

Staff integrity - Why would a staff member cover up

site plan violations by (a) altering official site plan documents after construction to conform to what was built and (b) falsely stating to the Board that the site plans were amended before construction? Why does staff continue to work with Developer behind the scenes to paper-over errors?

Building height - Hundreds of townhouse and multi-family units have been built at heights far in excess of Planning Board-prescribed heights.

Front yard setback - Hundreds of townhouse and multi-family units have been built without the Board-prescribed 10' front yard, i.e., street setback.

Phasing violations- Many community-centered common area projects required to be completed before additional phases of dwelling construction have been allowed to go unfinished as new construction continues apace. Areas key to the Clarksburg Master Plan and the approved Project Plan / Site Plan have been eliminated from the project without Amendment.

MPDU Violations - MPDU deficit for current phasing. Developer reduced MPDUs in high-end condominiums only to plan excess massing of MPDUs in what will become the Town Square/retail area.

What next? - Efforts by ordinary citizens to get to the bottom of the problems have been met with resistance, misdirection and cover-ups at virtually all levels of the staff for months, requiring hundreds of hours of digging and prodding just to learn why things have gotten so out of hand. When problems can no longer be ignored, they are compartmentalized into individual issues where citizens' attempts to obtain relief meet an imposing "burden of proof" requirement before the Board. Will the Board hold the developers accountable for site plan violations? What consequences will they face for their heedless pursuit

of profits? Is the Board willing to look at the problems in Clarksburg on a comprehensive, proactive basis and stop work until all issues are resolved?

Carolyn A. McAllister
12819 Clarks Crossing Drive
Clarksburg, MD 20871
240-235-4175

Yahoo! Sports
Rekindle the Rivalries. Sign up for Fantasy Football
<http://football.fantasysports.yahoo.com>

MCP-Chairman

RECEIVED
0991
JUN 27 2005

From: DeCarlo, Cathy [Cathy.DeCarlo@sodexhoUSA.com]
Sent: Monday, June 27, 2005 9:07 AM
To: MCP-Chairman
Cc: timdearros@comcast.net
Subject: Clarksburg Town Center Resident Complaint

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Chairman,

I have been on vacation for a week, and before I do anything else, including unpack, I want you to know how I feel about the miserable performance of you and your staff regarding requiring the developer, Newland, to comply with the original project plan for my community, Clarksburg Town Center.

I am very unhappy that I bought a home in Clarksburg, as are many of my neighbors. I will sell my home and move at the earliest possible moment unless something is done at the 7/7 hearing to ensure that this community will be the kind of development I was promised -- by the Newland representatives -- when I purchased my home. Among the items I was promised are:

- A well-designed walking, biking, front porch community with no parking enforced on porch oriented streets.
- A town center with a small-town, Savannah-styled feel which does not allow tall buildings, lots of vehicle traffic or strip mall developers.
- Beautifully landscaped entry areas, sidewalks and other green space, with areas specifically designed for dogs, children's play, biking, walking/jogging and picnics.
- An interest in the historic preservation goals expressed in this community for many years.
- A real response to home-owner concerns, as opposed to resistance and duplicity, sometimes stooping to the level of illegality, where changes to the original project plan are concerned.

I will be at the July 7 hearing to ensure my needs as a home-owner are met and that property values in my community are preserved.

C. J. DeCarlo
12943 Clarks Crossing Drive
Clarksburg, MD 20871
(301) 540-6293

6/27/2005

MCP-Chairman

From: Adrienne Elefantis [adrienne.elefantis@comcast.net]
Sent: Monday, June 27, 2005 9:10 AM
To: MCP-Chairman
Subject: Clarksburg Town Center development issues

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0993
JUN 27 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Chairman Berlage,

I am writing to voice my concerns about apparent developer violations in the Clarksburg Town Center (CTC), and the failure of MNCPP to stem these violations.

As a CTC resident and property owner, I support the original vision of the CTC Master Plan. The Master Plan needs to be upheld not only for legal reasons, but because what is built here directly affects our property values, our quality of life, and ultimately the kind of community that develops in this part of the county. MNCPP approved the Master Plan because it offered a progressive vision and specific benefits. But MNCPP has done nothing to stop the developer from systematically violating both the overall vision and the technical requirements of the Plan. The failure to enforce has been so extensive, it makes us wonder whose interests our county employees are trying to serve.

We as CTC residents now have to live with a legacy of countless developer violations, many of which will never be fixed. On top of that, we have real reason to be concerned that ongoing development of the remaining phases will continue to violate the Plan. This is totally unacceptable. And if nothing is done to address the CTC residents' concerns now, it will become a real PR problem for the MNCPP and the county.

I know you will be considering this issue in upcoming meetings. Although I cannot attend the July 7 hearing, I respectfully urge you to work with the Clarksburg Town Center Advisory Committee and counsel in coming up with a reasonable plan of action. Hopefully, with your help we can make sure CTC becomes the community we were all promised.

Thank you in advance for your attention to these matters.

Sincerely,
Adrienne Elefantis
23800 Branchbrier Way
Clarksburg, MD 20871
240-305-2919 (tel)

6/27/2005

MCP-Chairman

From: Mark Lieberman [Mark.Lieberman@carfax.com]
Sent: Monday, June 27, 2005 7:27 AM
To: MCP-Chairman
Subject: Clarksburg Town Center project / Comsat

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 0994
 JUN 27 2005

OFFICE OF THE CHAIRMAN
 THE MARYLAND NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

Mr. Derick P. Berlage,

We are sending you this email to voice our concerns regarding the Clarksburg Town Center project. Specifically, our concerns are in regards to the following unresolved issues. I would hope that the Clarksburg Town Center be developed in accordance with what residents were sold on and what developers originally committed to. That is only fair and equitable. We are hopeful that you will address these at the July 7th hearing.

An Unfulfilled Vision - The Clarksburg Town Center Master Plan envisioned a new Town Center whose scale and layout were in keeping with the scale of existing Historic Clarksburg development. Sensitive and sensible architectural scale have been abandoned in favor of oversized homes and bigger profits, even as planned community amenities are being scaled back or disappears altogether.

Developer complicity - Developers built in violation of site plan standards with no apparent concern that they would be held to account by the Board. Now the developers have filed Project Plan "Amendments" that, if approved would "paper over" all the violations, by turning them into conforming construction.

Staff failings - The staff has failed to systematically monitor compliance with the site plan development standards by ensuring that construction meets the prescribed development standards when releasing building permits. Why has the staff been attempting to blame DPS for these failings? Why has work not been brought to a halt on construction known to be out of compliance?

Staff integrity - Why would a staff member cover up site plan violations by (a) altering official site plan documents after construction to conform to what was built and (b) falsely stating to the Board that the site plans were amended before construction? Why does staff continue to work with Developer behind the scenes to paper-over errors?

Building height - Hundreds of townhouse and multi-family units have been built at heights far in excess of Planning Board-prescribed heights.

Front yard setback - Hundreds of townhouse and multi-family units have been built without the Board-prescribed 10' front yard, i.e., street setback.

Phasing violations- Many community-centered common area projects required to be completed before additional phases of dwelling construction have been allowed to go unfinished as new construction continues apace. Areas key to the Clarksburg Master Plan and the approved Project Plan / Site Plan have been eliminated from the project without Amendment.

MPDU Violations - MPDU deficit for current phasing. Developer reduced MPDUs in high-end condominiums only to plan excess massing of MPDUs in what will become the Town Square/retail area.

Additionally, we support the preservation of the historic COMSAT building and the 33.5 acres

6/27/2005

of open space.

Regards,

Mark & Linda Lieberman

23402 Clarksridge Rd

Clarksburg, MD 20871

6/27/2005

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JUN 27 2005

Page 1 of 1

MCP-Chairman

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

From: Paul (and/or Mary) Majewski [pmajewski@att.net]
Sent: Monday, June 27, 2005 7:58 AM
To: MCP-Chairman
Cc: Matthews, Catherine; Scott Reilly; oemail@montgomerycou; Duncan, Douglas; MC Council;
Rob_Garagiola@senate.state.md.us; Kathleen Dumais; Jean Cryor;
Brian.Feldman@house.state.md.us; ClarksburgCA@yahoo.com
Subject: Please rescind all currently approved housing development plans until infrastructure makes progress

Chairman Berlage and planning board members:

Please see attached and, accordingly, please rescind all currently approved housing development plans until infrastructure makes progress

Paul Majewski
President
Clarksburg Civic Association
P.O. Box 325
Clarksburg MD 20871
(H: 301-972-6031 W: 301-975-4069)

6/27/2005

cCa
Clarksburg Civic Association
Clarksburg, Maryland 20871-0325

Jun 27, 2005

The Honorable Derick Berlage
Chairman
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Chairman Berlage

Members of the Clarksburg Civic Association, its Executive Committee, its Planning Committee, and I request that you strictly control growth of housing in the Clarksburg area until:

- roads are built and maintained to handle existing and anticipated traffic,
- emergency rescue service response approaching six minutes is practically possible to all units at all stages of construction and road maintenance, and
- deviations from the master plan are corrected, compensated for, adjusted for, and measures be taken to prevent any reoccurrence.

Specifically, halt the construction of houses and granting of housing permits. Rescind all currently approved housing development plans. Approve only plans that include strict conditions that can and will be proactively enforced and that force the following:

- sufficient roads, schools, emergency rescue service, and other amenities (such as sidewalks and bike paths) must be scheduled and built prior to the construction activity and residential units that are the major cause for their need;
- construction must be tied to more and sufficient permitting and enforcement;
- Fire and Rescue Service must have veto authority over every aspect of the planning, permitting, and enforcement process.

The above is required now. Residents of Clarksburg risk their lives when they travel these roads. It is risky even to live in houses not readily accessible to emergency response. We spend more time in Clarksburg road delays than in I-270 or beltway delays. Given that the build out of Clarksburg is only just starting, we have a chance to prevent disastrous consequences in the future.

Sincerely yours,

Paul E. Majewski
President
Clarksburg Civic Association

cc:

mcp-chairman@mncppc-mc.org

Matthews, Catherine <Catherine.Matthews@montgomerycountymd.gov>;

Scott Reilly <scott.reilly@montgomerycountymd.gov>;

ocemail@montgomerycou <ocemail@montgomerycountymd.gov>;

Duncan, Douglas <Douglas.Duncan@montgomerycountymd.gov>;

MC Council <county.council@montgomerycountymd.gov>;

Email for Maryland District 15 Delegates and Senator.

12809 Pinnacle Drive
Germantown, MD 20874
June 27, 2005

The Honorable Derick Berlage, Chairman and
Members of the Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Clarksburg Town Center

Dear Chairman Berlage and the Members of the Planning Board:

On May 27, 2005 I received notification from Craftstar Homes that they would not proceed with construction of a condominium town house unit that I had contracted to purchase in December 2004, based on continuing deliberations by the Montgomery County Planning Board regarding an apparent lack of specificity on certain height restrictions within Clarksburg Town Center. Since then I have researched the Planning Board's website for information pertaining to the zoning dispute initiated by a very small, but apparently very vocal group of homeowners of Clarksburg Town Center ("CTCAC") who allegedly represent the Clarksburg community. There are a number of related matters that I would like to address.

I must first take exception with CTCAC and their assertion that they are an elected group that represents the residents of Clarksburg Town Center. When this small gang of friends and neighbors presents a charter, minutes of meetings, a mission statement, a set of bylaws governing the organization (including rules for elections), and a membership list for public display, review, comment, and approval by the residents of Clarksburg Town Center, it can then proceed to act as representatives of said group. Until then, any assertion that they are an elected group who has the authority to speak for others (beyond the handful of people who claim to be members) is a self-serving and meaningless statement crafted to mask their own agenda. I think that as residents of Montgomery County they have the right to pursue their own self interests before the Board, but this small band of friends and acquaintances has absolutely no basis to assert that they speak for all the residents of Clarksburg Town Center. Yet they seem not to be troubled in saying so.

In its letter to the Board dated January 25, 2004, CTCAC states that the M-NCPPC Staff "has been grossly negligent" yet offers no documentation to support such a claim. In an attachment to the January 25th letter, CTCAC asserts that "Developer's submission of "four stories" was deliberately vague," but again provides no evidence to support its knowledge of the Developer's state of mind. I find it odd that CTCAC demands accountability from the Board, but does not hold itself to any standards regarding the facts.

Based on the documentation I have researched, CTCAC never provides, in writing, a coherent, factual basis for its claim that a specific height restriction of 45 feet exists for the residences in question. Apparently some vague reference to a parenthetical insertion to documents created in 1995 (one of many documents that creates a four-story height restriction) stands as a specific cap for CTCAC. It is difficult to comprehend how CTCAC can conclude that a parenthetical insertion creates a binding cap that creates a height restriction in terms of measurement by feet. Absent a clear and detailed explanation of the inconsistent parenthetical insertion, how can anyone conclude that a height cap had been created by the prior stages of the planning process, absent clear documentation on the matter. Apparently both the Board (and its staff) was unaware of such a restriction in the past. But again, CTCAC needs not hold itself to any reasonable standards (or judgments) when it reaches a conclusion. I claim not to be a zoning expert but if the primary reference to height restrictions contained in all other planning and zoning documents related to the properties in question are designated (and communicated) in terms of number of floors or stories, rather than feet, then it seems reasonable to conclude that a change in height restrictions from the number of floors to feet would be extensively documented and clearly disclosed. Absent that documentation, it appears that the preponderance of evidence pertaining to height restrictions for the units in question has

been stated in floors, not feet. I will leave further discussion of such matters to those more knowledgeable than myself.

What I do want to address with the Board are the financial hardships and the uncertainties that both the Board and CTCAC have created for purchasers of the affected properties by not reaching an appropriate conclusion on this issue in a timely fashion and permitting construction to commence. At the end of the day, this is a dispute regarding equity and fairness to all participants. I (and many others) purchased a residence assuming that years and years of planning and hearings had resolved the rather mundane and routine zoning issues. Never could any of us have imagined that a small band of vocal dissidents could disrupt both our lives and the planning process that should insure order and certainty. Never did we imagine that a group with a hidden agenda could seize the process and hold it hostage to their demands. My purchase, months in advance of commencement of construction, was based on the assumption of order and certainty on zoning issues and that is not an unreasonable expectation. I believe the Board's inability to reach an appropriate decision in a timely manner could have created a dangerous precedent.

Although I speak for myself, I'm certain that each of the purchasers of the affected units has had to confront similar financial and personal hardships as the result of this seemingly endless delay. For myself, that delay created: (1) substantial uncertainty with respect to the existing mortgage lending commitment I secured in December 2004; (2) the likelihood that an interim short-term leasing arrangement that I need to secure (I currently rent an apartment) will lead to a significantly higher monthly rent payment; and (3) the likelihood of a significantly higher federal and state income tax liability at year end. Unfortunately those are the real costs of delay even if construction commences with the Board's approval. A finding by the Board that construction cannot proceed has even more dire consequences and would be near fatal to my home ownership plans and expectations. First, there is no viable alternative for me within Clarksburg Town Center because I cannot afford any other available housing options. I also cannot afford similarly designed units be constructed outside of Clarksburg Town Center, whose current cost exceeds the purchase price of my unit by \$100,000. I simply am left with no affordable options for a residence of similar size. That is the reality of the existing real estate market.

In its deliberations on this matter, the Board should realize that the delays in construction have real financial consequences and resulted in significant distress on both an economic and personal level for those people whose only crime appears to be trying to find a place to call home.

Yours truly,

George Spanos

MCP-Chairman

From: Zutijero@aol.com
Sent: Monday, June 27, 2005 4:52 PM
To: MCP-Chairman
Subject: Clarksburg Town Center - Mont. County

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OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Derick Berloge,

I am homeowner in Clarksburg Town Center and have been disappointed with series of failures by developer/s to maintain standards of design and zoning compliance.

How can Maryland citizenry expect to duplicate or perpetuate the enormously desirable, and INTELLIGENT aspect of a Kentlands- type, 'new town' development when oversight of other developments (mine) are so apparently rife with opportunity for noncompliance by builder/s, developer/s?

Need I say, this does not reflect well on Montgomery County government?

One very small specific:

I am still trying to figure out why our retail neighborhood development was apparently 'awarded'(?), 'designated'(?), 'strong-armed'(?) a Giant brand food store many years ago before any construction began when there is already a Giant brand food store less than 2 miles south along Route 355 in Milestone development.

Well, but of course this eliminates any need for competition in price and product and, as always, hurts the people of Montgomery County.

My personal preference would be for an upscale brand i.e.: Fresh Fields store or Balducci's,

however, I cannot believe that a Safeway, Food Lion, Magruder would not want to be represented.

What sort of arrangements are going are?

There are street setbacks that have not been met, height requirements ignored, inadequate recreation facilities hurriedly installed (example: yes, 2 outdoor swimming pools are included in the development -- but each being not much larger than one would find in someone's backyard).

Promised and budgeted for cutting edge features designed into future community schools have been eliminated or drastically reduced.

Interestingly, my property taxes certainly have not been eliminated or drastically reduced.

The once golden tone of Montgomery County continues to tarnish at the expense of it's public.

thank you -
Z Tijero
Clarksburg Town Center
Clarksburg, MD 20871

Ps additionally, I am FOR preservation of Historic Site - COMSAT building
along I270.

SOMEONE, some business or group would love to own and use this building and
property.

This requires finding, searching for, perhaps an unusual or nontraditional
end-user.

Think outside of the box.

MCP-Chairman

From: Arnold Schottland [bigschott@yahoo.com]
Sent: Monday, June 27, 2005 2:01 PM
To: county.council@montgomerycountymd.gov; douglas.duncan@montgomerycountymd.gov;
councilmember.knapp@montgomerycountymd.gov; MCP-Chairman;
upcounty.citizen@montgomerycountymd.gov; randy.wheeler@montgomerycountymd.gov
Subject: Clarksburg Town Center

My wife and I moved to Clarksburg Town Center after we visited the community and were very impressed with the concept of a "neo-traditional planned community". The "Town Center", the "pocket parks", the bicycle paths, the "pedestrian friendly" streets, the retail center, the "Town Square", all served to make our decision very easy.

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We have become, however, very disappointed with the way our community has progressed. Many of the homes are being constructed violating Site Plan guidelines, such as height and setbacks. Also, the plan for the retail area has met with community concerns and has yet to be approved. It is now our understanding that the planned library will be considered as a portion of the retail square footage, thereby taking away significantly from the shops and restaurants. Further, the planned amenities have yet to be completed in a timely fashion. Our understanding was that a timetable had been agreed upon regarding the various planned phases of the development. Yet, while scores of homes have been completed and occupied, we have yet to see the pool, bicycle paths, any retail, etc., completed.

We understand that the developer (Newland) now is requesting approval to amend the project plan. We believe that is only to obfuscate the fact that he is out of compliance with regards to the guideline and regulations. We are requesting you to hold the developer responsible to follow the rules and regulations as stated in the Project Plan. Please do not let them change the rules to suit themselves!

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MCP-Chairman

From: dpatel@issinet.com
Sent: Monday, June 27, 2005 9:57 AM
To: MCP-Chairman
Subject: WHAT HAS GONE WRONG IN THE CLARKSBURGTOWN CENTER PROJECT?

WHAT HAS GONE WRONG IN THE CLARKSBURGTOWN CENTER PROJECT?

An Unfulfilled Vision - The Clarksburg Town Center Master Plan envisioned a new TownCenter whose scale and layout were in keeping with the scale of existing Historic Clarksburg development. Sensitive and sensible architectural scale have been abandoned in favor of oversized homes and bigger profits, even as planned community amenities are being scaled back or disappears altogether.

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Developer complicity - Developers built in violation of site plan standards with no apparent concern that they would be held to account by the Board. Now the developers have filed Project Plan "Amendments" that, if approved would "paper over" all the violations, by turning them into conforming construction. What possessed them to think that this strategy would actually work?

Staff failings - The staff has failed to systematically monitor compliance with the site plan development standards by ensuring that construction meets the prescribed development standards when releasing building permits. Why has the staff been attempting to blame DPS for these failings? Why has work not been brought to a halt on construction known to be out of compliance?

Staff integrity - Why would a staff member cover up site plan violations by (a) altering official site plan documents after construction to conform to what was built and (b) falsely stating to the Board that the site plans were amended before construction? Why does staff continue to work with Developer behind the scenes to paper-over errors?

Building height - Hundreds of townhouse and multi-family units have been built at heights far in excess of Planning Board-prescribed heights.

Front yard setback - Hundreds of townhouse and multi-family units have been

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MCP-CTRACK

From: Steve Tsang [clarksburgcondo@yahoo.com]

Sent: Tuesday, June 28, 2005 8:56 AM

To: MCP-Chairman

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THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Hi, I am a Clarksburg Town Center Resident, and I support the committee and its actions on behalf of the entire Clarksburg Town Center community. The developer has not complied with the stipulations of the Site Plans and its Enforcement Agreement. Please find that there was a violation, and decide on a course of corrective action.

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6/28/2005